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February 3, 2021

The Honorable William H. Pauley III  
United States District Court, Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 1920  
New York, NY 10007-1312

**Re: *Baez et al. v. New York City Housing Authority (NYCHA)*, No. 13-cv-8916 (WHP)**

Dear Judge Pauley:

We write to provide the Court with information regarding open work orders in NYCHA developments funded pursuant to Section 9 of the Housing Act of 1937, which Plaintiffs offered to provide the Court during oral argument on January 27, 2021.

In addition, Plaintiffs respectfully write to correct two statements made by counsel during oral argument. First, despite NYCHA's statement that it was "totally illogical" to conclude that the class meant to cover residents of NYCHA housing funded through Section 8 because no such developments existed at the time of class certification, multiple NYCHA-owned developments were funded through Section 8 at the time of class certification. Second, despite transitioning the development to PACT management, NYCHA included the Ocean Bay Apartments development in its quarterly reports through, and after, the date of the Revised Consent Decree.

**I. The Average Number of Open Work Orders in Section 9 Buildings Indicates that Approximately 15,000 Open Work Orders May Be Removed from NYCHA's Compliance Metrics by the end of the PACT Conversion Process.**

During oral argument, Plaintiffs offered to provide the Court with the average percentage of open work orders across NYCHA Section 9 housing. *See* Tr. at 21:2-10.<sup>1</sup> According to information provided by the Independent Data Analyst, Neil Steinkamp, 23.3% of NYCHA's 165,923 Section 9-funded apartments had open, in-unit work orders as of January 25, 2021. *See* January 29, 2021 Email from Neil Steinkamp attached hereto as **Exhibit B**.

As more fully set forth in Plaintiffs' moving papers, the number of open work orders in developments transitioned to RAD management are not included in NYCHA's quarterly compliance reports. *See* ECF No. 294 at 10. However, Mr. Steinkamp's data showed that 25% of Manhattan Bundle apartments had open work orders at the time of their transition, *see* ECF No. 295-1, Ex. E at 2, a slightly higher number than the overall percentage of open work orders in units that NYCHA is currently tracking. Assuming that NYCHA still plans to transition a

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<sup>1</sup> References to "Tr." are to the transcript of the oral argument before the Court on January 27, 2021. Cited portions of the transcript are attached hereto as **Exhibit A**.



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total of 62,000 NYCHA apartments to PACT management—and that between 23- to 25-percent of work orders remain open in those apartments at the time of transition—then anywhere from 14,260 to 15,500 open work orders will be excluded from NYCHA’s compliance metrics under the Revised Consent Decree by the time NYCHA finishes its planned PACT transitions. *See* ECF No. 295-1, Ex. B at 1.

**II. Contrary to NYCHA’s Assertion, Multiple NYCHA Developments Were Funded Through Section 8 at the Time of Class Certification.**

During oral argument, NYCHA stated that it would be “totally illogical” to conclude that the class of Plaintiffs certified in this action includes Section 8 residents because “when the class was certified and when the original consent decree were entered into, there was *no such thing as NYCHA housing funded through Section 8*.” *See* Tr. at 23:22-24:1; 24:20-23 (emphasis added). NYCHA further argued that while there was “Section 8 housing, which was owned and operated by private landlords, . . . NYCHA had *no involvement* in that” at the time of class certification. *Id.* at 24:1-5 (emphasis added). NYCHA’s statements are factually incorrect.

At the time the class was certified, NYCHA had at least six NYCHA Project Based Section 8 developments funded through Section 8 (much like the PACT buildings now). *See, e.g.*, NYCHA Development Data Book 2013 at p. 62, available at <https://www1.nyc.gov/assets/nycha/downloads/pdf/pdb2013.pdf>. On November 7, 2013, months before the class was certified, NYCHA issued a press release entitled “NYCHA Announces Developer/Manager for Project-based Section 8 Properties.” The press release announced “the selection of a development team to begin work at six of NYCHA’s project-based Section 8 properties.” *See* November 7, 2013 Press Release attached hereto as **Exhibit C**.

**III. NYCHA Included the Ocean Bay Apartments Development in its Quarterly Reports Through at Least January 2019.**

Plaintiffs also wish to correct certain information regarding the Ocean Bay development, which was transitioned through the PACT program in 2016. During oral argument, the Court asked Plaintiffs’ counsel whether Plaintiffs noticed that Ocean Bay work orders had suddenly disappeared from NYCHA’s quarterly reports upon PACT conversion. Plaintiffs’ counsel responded in the negative. *See* Tr. at 9:1-5.

Upon detailed review of NYCHA’s quarterly reports, Plaintiffs write to correct the record. In fact, NYCHA included work orders from the Ocean Bay development in its quarterly reports through at least the Quarter 19 Report, which covered the November 2018 through January 2019 reporting period (i.e., well after July 24, 2018, when the Revised Consent Decree was submitted



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and after November 29, 2018, when the Court So Ordered the decree).<sup>2</sup> *See, e.g.*, Excerpts of NYCHA's Quarter 11 and 19 Reports, attached hereto as **Exhibit D**.

Respectfully submitted,

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<sup>2</sup> NYCHA failed to issue quarterly reports for Quarters 20 and 21. The Quarter 22 Report, which governs the August through October 2019 reporting period, indicates that the Report "excludes work orders associated with developments that have transitioned out of NYCHA management through the [Rental Assistance Demonstration ("RAD")] program." By the time the Quarter 22 Report was issued, NYCHA had informed Plaintiffs that it did not believe the Revised Consent Decree applied to RAD buildings and Plaintiffs had already reserved their rights with respect to NYCHA's position on RAD and PACT. *See* ECF No. 309 at 6.